



FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request;

Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is seeking public comment on its proposal to extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements in its “Used Motor Vehicle Trade Regulation Rule” (“Used Car Rule” or “Rule”), which applies to used vehicle dealers. That clearance expires on January 31, 2023.

DATES: Comments must be filed by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. Write “Used Car Rule, PRA Comment, FTC File No. [P137606]” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Elizabeth Scott, (312) 960-5609, Attorney, Midwest Region, Federal Trade Commission, 230 South Dearborn Street, Suite 3030, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION:

Title of Collection: The Used Car Rule, 16 CFR Part 455.

OMB Control Number: 3084-0108.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 3,338,568.

Estimated Annual Labor Costs: \$60,628,394.

Non-Labor Costs: \$12,242,100.

Abstract:

Under the PRA, 44 U.S.C. 3501-3521, Federal agencies must obtain OMB approval for each collection of information they conduct or sponsor. “Collection of information” includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the Used Car Rule, 16 CFR part 455 (OMB Control Number 3084-0108).

The Used Car Rule promotes informed purchasing decisions by requiring that used car dealers display a form called a “Buyers Guide” on each used car offered for sale that, among other things, discloses information about warranty coverage and other information to assist purchasers. The Rule has no recordkeeping or reporting requirements. The FTC seeks clearance for the Rule’s disclosure requirements and the estimated PRA burden for those requirements.

Burden statement:

Estimated total annual hours burden: 3,338,568.

As explained in more detail below, this total is based on estimates of the number of new car and used car dealers that sell used cars (46,525¹), the number of used cars sold by dealers

¹ See U.S. Census Bureau, All Sectors: County Business Patterns, including ZIP Code Business Patterns, by Legal

annually (approximately 40,807,000²), and the time needed to fulfill the information collection tasks required by the Rule.³

The Rule requires that used car dealers display a one-page, double-sided Buyers Guide on each used car that they offer for sale. The component tasks associated with the Rule's required display of Buyers Guides include: (1) ordering and stocking Buyers Guides; (2) entering data on Buyers Guides; (3) displaying the Buyers Guides on vehicles; (4) revising Buyers Guides as necessary; and (5) complying with the Rule's requirements for sales conducted in Spanish.

1. *Ordering and Stocking Buyers Guides:* Dealers should need no more than an average of two hours per year to obtain Buyers Guides, which are readily available from many commercial printers or can be produced by an office word-processing or desktop publishing system.⁴ Based on an estimated population of 46,525 dealers, the annual hours burden for producing or obtaining and stocking Buyers Guides is 93,050 hours (46,525 dealers × 2 minutes).

2. *Entering Data on Buyers Guides:* The amount of time required to enter applicable data on Buyers Guides may vary substantially, depending on whether a dealer has automated the process. For used cars sold “as is,” copying vehicle-specific data from dealer inventories to Buyers Guides and checking the “No Warranty” box may take two to three minutes per vehicle if done by hand, and only seconds for those dealers who have automated the

Form of Organization and Employment Size Class for the U.S., States, and Selected Geographies: 2019, *available at* <https://data.census.gov/cedsci/table?q=CBP2019.CB1900CBP&n=44111%3A44112&tid=CBP2019.CB1900CBP&hidePreview=true&nkd=EMPSZES~001,LFO~001> (listing 21,427 establishments for “new car dealers,” NAICS code 44111, and 25,098 establishments for “used car dealers,” NAICS code 44112).

² U.S. Dept. of Trans., Bureau of Trans. Stat., *New and Used Passenger Car and Light Truck Sales and Leases*, <https://www.bts.gov/content/new-and-used-passenger-car-sales-and-leases-thousands-vehicles> (last visited Oct. 8, 2021) (listing 40,807,000 used vehicle sales in 2019).

³ Some dealers opt to contract with outside contractors to perform the various tasks associated with complying with the Rule. Staff assumes that outside contractors would require about the same amount of time and incur similar costs as dealers to perform these tasks. Accordingly, the hour and cost burden totals shown, while referring to “dealers,” incorporate the time and cost borne by outside companies in performing the tasks associated with the Rule.

⁴ Buyers Guides are also available online from the FTC's Web site, [www.ftc.gov](http://business.ftc.gov/selected-industries/automobiles), at <http://business.ftc.gov/selected-industries/automobiles>.

process or use pre-printed forms. Staff estimates that dealers will require an average of two minutes per Buyers Guide to complete this task. Similarly, for used cars sold under warranty, the time required to check the “Warranty” box and to add warranty information, such as the additional information required in the Percentage of Labor/Parts and the Systems Covered/Duration sections of the Buyers Guide, will depend on whether the dealer uses a manual or automated process or Buyers Guides that are pre-printed with the dealer’s standard warranty terms. Staff estimates that these tasks will take an average of one additional minute, i.e., cumulatively, an average total time of three minutes for each used car sold under warranty.

Staff estimates that dealers sell approximately fifty percent of used cars “as is” and the other half under warranty. Therefore, staff estimates that the overall time required to enter data on Buyers Guides consists of 680,117 hours for used cars sold without a warranty (40,807,000 vehicles \times 50% \times 2 minutes per vehicle) and 1,020,175 hours for used cars sold under warranty (40,807,000 vehicles \times 50% \times 3 minutes per vehicle) for a cumulative estimated total of 1,700,292 hours.

3. *Displaying Buyers Guides on Vehicles:* Although the time required to display the Buyers Guides on each used car may vary, FTC staff estimates that dealers will spend an average of 1.75 minutes per vehicle to match the correct Buyers Guide to the vehicle and to display it on the vehicle. The estimated burden associated with this task is approximately 1,190,204 hours (40,807,000 vehicles \times 1.75 minutes per vehicle).

4. *Revising Buyers Guides as Necessary:* If negotiations between the buyer and seller over warranty coverage produce a sale on terms other than those originally entered on the Buyers Guide, the dealer must revise the Buyers Guide to reflect the actual terms of sale. According to the original rulemaking record, bargaining over warranty coverage rarely occurs. Staff notes that consumers often do not need to negotiate over warranty coverage because they can find vehicles that are offered with the desired warranty coverage online or in other ways before ever contacting a dealer. Accordingly, staff assumes that dealers will revise the Buyers

Guide in no more than two percent of sales, with an average time of two minutes per revision. Therefore, staff estimates that dealers annually will spend approximately 27,205 hours revising Buyers Guides (40,807,000 vehicles \times 2% \times 2 minutes per vehicle).

5. *Spanish Language Sales:* The Rule requires dealers to make contract disclosures in Spanish if the dealer conducts a sale in Spanish.⁵ The Rule permits displaying both an English and a Spanish language Buyers Guide to comply with this requirement.⁶ Many dealers with large numbers of Spanish-speaking customers likely will post both English and Spanish Buyers Guides to avoid potential compliance violations.

Calculations from United States Census Bureau surveys indicate that approximately 13.4 percent of the United States population speaks Spanish at home, and 8.4 percent of the population speak English less than very well.⁷ Staff therefore estimate that dealers will conduct approximately 8.4 percent of used car sales in Spanish. Accordingly, dealers will incur the additional burden of completing and displaying a second Buyers Guide in approximately 3,427,788 sales assuming that dealers choose to comply with the Rule by posting both English and Spanish Buyers Guides. Moreover, as noted above, FTC staff estimates that approximately 50% of used cars are sold as-is without a warranty, while the remainder are sold with a warranty. As a result, staff estimates that the annual hours burden associated with entering data on Buyers Guides for sales in Spanish of cars without a warranty is 57,130 hours (1,713,894 sales \times 2 minutes). The estimated annual hours burden associated with completing Spanish language buyers guides for vehicles with a warranty is 85,695 hours (1,713,894 sales \times 3 minutes). In addition, staff estimates that the additional burden caused by the Rule's requirement that dealers display Spanish language Buyers Guides when conducting sales in Spanish is 99,977 hours

⁵ 16 CFR 455.5.

⁶ *Id.*

⁷ U.S. Census Bureau, <https://www.census.gov/acs/www/about/why-we-ask-each-question/language/> (last visited March 7, 2022).

(3,427,788 sales \times 1.75 minutes).

6. *Optional Disclosures of Non-Dealer Warranties:* The Rule does not require dealers to disclose information about non-dealer warranties, but provides dealers with the options to disclose such warranties on Buyers Guides. FTC staff has estimated that dealers will make the optional disclosures on 25% of used cars offered for sale. Staff believes that checking the optional boxes to disclose a non-dealer warranty should require dealers no more than 30 seconds per vehicle. Accordingly, based on 40,807,000 used cars sold, staff estimates that making the optional disclosures entails a burden of 85,015 hours (25% \times 40,807,000 vehicles sold \times 1/120 hour per vehicle).

Estimated annual cost burden:

1. *Labor costs:* Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Staff has determined that all of the tasks associated with ordering forms, entering data on Buyers Guides, posting Buyers Guides on vehicles, and revising them as needed, including the corresponding tasks associated with Spanish Buyers Guides and providing optional disclosures about non-dealer warranties, are typically done by clerical or low-level administrative personnel. Using a clerical cost rate of \$18.16 per hour⁸ and an estimated annual burden of 3,338,568 hours for disclosure requirements, the total labor cost burden is \$60,628,394 (\$18.16 per hour \times 3,338,568 hours).

2. *Capital or other non-labor costs:* Although the cost of Buyers Guides may vary, staff estimates that the average cost of each Buyers Guide is thirty cents based on industry input. Therefore, the estimated cost of Buyers Guides for the estimated 40,807,000 used cars sold by dealers is approximately \$12,242,100 (40,807,000 vehicles sold \times 30 cents). In making this estimate, staff assumes that all dealers will purchase pre-printed forms instead of producing them

⁸ The hourly rate is based on the Bureau of Labor Statistics estimate of the mean hourly wage for office clerks, general. *Occupational Employment and Wages, May 2020, 43-9061 Office Clerks, General*, available at: <https://www.bls.gov/oes/current/oes439061.htm#nat>.

internally, although dealers may produce them at lower expense using their own office automation technology. Capital and start-up costs associated with the Rule are minimal.

Request for Comment: Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure, recordkeeping, and reporting requirements are necessary, including whether the resulting information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the disclosure requirements; and (4) how to minimize the burden of providing the required information to consumers.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Write “Used Car Rule, PRA Comment, FTC File No. [P137606]” on your comment. Your comment, including your name and your state—will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Due to the public health emergency in response to the COVID-19 outbreak and the agency’s heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper,, write “Used Car Rule, PRA Comment, FTC File No. [P137606]” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at

www.regulations.gov, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential" – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For

information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2022-11944 Filed: 6/2/2022 8:45 am; Publication Date: 6/3/2022]